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United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

Report of the Sixth Committee

Rapporteur: Ms. Shermain **Jeremy** (Antigua and Barbuda)

I. Introduction

1. The item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law" was included in the provisional agenda of the sixtieth session of the General Assembly pursuant to Assembly resolution 58/73 of 9 December 2003.

2. At its 17th plenary meeting, on 20 September 2005, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 19th to 21st meetings, on 2, 3 and 9 November 2005. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/60/SR.19-21).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/60/441).

II. Consideration of draft resolution A/C.6/60/L.5

5. At the 19th meeting, on 2 November, the representative of Ghana introduced a draft resolution entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law" (A/C.6/60/L.5).

6. At its 21st meeting, on 9 November, the Committee adopted draft resolution A/C.6/60/L.5 without a vote (see para. 7).

05-59959 (E) 151105

III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

The General Assembly,

Taking note with appreciation of the report of the Secretary-General on the implementation of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law[1] and the guidelines and recommendations on future implementation of the Programme which were adopted by the Advisory Committee on the Programme and are contained in section III of the report,

Considering that international law should occupy an appropriate place in the teaching of legal disciplines at all universities,

Noting with appreciation the efforts made by States at the bilateral level to provide assistance in the teaching and study of international law,

Convinced, nevertheless, that States and international organizations and institutions should be encouraged to give further support to the Programme and increase their activities to promote the teaching, study, dissemination and wider appreciation of international law, in particular those activities which are of special benefit to persons from developing countries,

Reaffirming its resolutions 2464 (XXIII) of 20 December 1968, 2550 (XXIV) of 12 December 1969, 2838 (XXVI) of 18 December 1971, 3106 (XXVIII) of 12 December 1973, 3502 (XXX) of 15 December 1975, 32/146 of 16 December 1977, 36/108 of 10 December 1981 and 38/129 of 19 December 1983, in which it stated or recalled that in the conduct of the Programme it was desirable to use as far as possible the resources and facilities made available by Member States, international organizations and others, as well as its resolutions 34/144 of 17 December 1979, 40/66 of 11 December 1985, 42/148 of 7 December 1987, 44/28 of 4 December 1989, 46/50 of 9 December 1991, 48/29 of 9 December 1993, 50/43 of 11 December 1995, 52/152 of 15 December 1997, 54/102 of 9 December 1999, 56/77 of 12 December 2001 and 58/73 of 9 December 2003, in which, in addition, it expressed or reaffirmed the hope that, in appointing lecturers for the seminars to be held within the framework of the fellowship programme in international law, account would be taken of the need to secure the representation of major legal systems and balance among various geographical regions,

1. *Approves* the guidelines and recommendations contained in section III of the report of the Secretary-General[1] and adopted by the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, in particular those designed to achieve the best possible results in the administration of the Programme within a policy of maximum financial restraint;

[1] A/60/441.

2. *Authorizes* the Secretary-General to carry out in 2006 and 2007 the activities specified in his report, including the provision of:

(a) A number of international law fellowships in both 2006 and 2007, to be determined in the light of the overall resources for the Programme and to be awarded at the request of Governments of developing countries;

(b) A minimum of one scholarship in both 2006 and 2007 under the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea, subject to the availability of new voluntary contributions made specifically to the fellowship fund;

(c) Subject to the overall resources for the Programme, assistance in the form of a travel grant for one participant from each developing country, who would be invited to possible regional courses to be organized in 2006 and 2007;

and to finance the above activities from provisions in the regular budget, when appropriate, as well as from voluntary financial contributions earmarked for each of the activities concerned, which would be received as a result of the requests set out in paragraphs 12 to 14 below;

3. *Expresses its appreciation* to the Secretary-General for his constructive efforts to promote training and assistance in international law within the framework of the Programme in 2004 and 2005, in particular for the organization of the fortieth[2] and forty-first[3] sessions of the International Law Seminar, held at Geneva in 2004 and 2005, respectively, and for the activities of the Office of Legal Affairs of the Secretariat related to the fellowship programme in international law and to the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea, carried out, respectively, through its Codification Division and its Division for Ocean Affairs and the Law of the Sea;

4. *Requests* the Secretary-General to consider the possibility of admitting, for participation in the various components of the Programme, candidates from countries willing to bear the entire cost of such participation;

5. *Also requests* the Secretary-General to consider the relative advantages of using available resources and voluntary contributions for regional, subregional or national courses, as against courses organized within the United Nations system;

6. *Further requests* the Secretary-General to continue to provide the necessary resources to the programme budget for the Programme for the next and the future bienniums with a view to maintaining the effectiveness of the Programme;

7. *Recognizes* the importance of the United Nations recurrent legal publications listed in the report of the Secretary-General,[4] and strongly encourages their continued publication;

8. *Welcomes* the efforts undertaken by the Office of Legal Affairs to bring up to date the United Nations *Treaty Series* and the *United Nations Juridical Yearbook*, as well as efforts made to place on the Internet the *Treaty Series* and other legal information;

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[2] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 10* (A/59/10), chap. XI, sect. E.

[3] Ibid., *Sixtieth Session, Supplement No. 10* (A/60/10), chap. XII, sect. E.

[4] A/60/441, sect. II.5.

9. *Expresses its appreciation* to the United Nations Institute for Training and Research for its participation in the Programme through the activities described in the report of the Secretary-General;

10. *Also expresses its appreciation* to The Hague Academy of International Law for the valuable contribution it continues to make to the Programme, which has enabled candidates under the fellowship programmes in international law to attend and participate in the Programme in conjunction with the Academy courses;

11. *Notes with appreciation* the contributions of The Hague Academy to the teaching, study, dissemination and wider appreciation of international law, and calls upon Member States and interested organizations to give favourable consideration to the appeal of the Academy for a continuation of support and a possible increase in their financial contributions, to enable the Academy to carry out its activities, particularly those relating to the summer courses, regional courses and programmes of the Centre for Studies and Research in International Law and International Relations;

12. *Requests* the Secretary-General to continue to publicize the Programme and periodically to invite Member States, universities, philanthropic foundations and other interested national and international institutions and organizations, as well as individuals, to make voluntary contributions towards the financing of the Programme or otherwise to assist in its implementation and possible expansion;

13. *Reiterates its request* to Member States and to interested organizations and individuals to make voluntary contributions, inter alia, for the International Law Seminar, the fellowship programme in international law, the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea and the United Nations Audiovisual Library in International Law, and expresses its appreciation to those Member States, institutions and individuals that have made voluntary contributions for this purpose;

14. *Urges* in particular all Governments to make voluntary contributions for the organization of regional refresher courses in international law by the United Nations Institute for Training and Research, especially with a view to covering the amount needed for the financing of the daily subsistence allowance for up to twenty-five participants in each regional course, thus alleviating the burden on prospective host countries and making it possible for the Institute to continue to organize the regional courses;

15. *Requests* the Secretary-General to report to the General Assembly at its sixty-second session on the implementation of the Programme during 2006 and 2007 and, following consultations with the Advisory Committee on the Programme, to submit recommendations regarding the execution of the Programme in subsequent years;

16. *Decides* to include in the provisional agenda of its sixty-second session the item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law".

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Report of the United Nations Commission on International Trade Law on the work of its thirty-eighth session

Report of the Sixth Committee

Rapporteur: Ms. Shermain **Jeremy** (Antigua and Barbuda)

I. Introduction

1. At its 17th plenary meeting, on 20 September 2005, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixtieth session the item entitled "Report of the United Nations Commission on International Trade Law on the work of its thirty-eighth session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 1st, 2nd, 10th and 14th meetings, on 3, 4, 21 and 26 October 2005. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/60/SR.1, 2, 10 and 14).

3. For its consideration of the item, the Committee had before it the report of the United Nations Commission on International Trade Law on the work of its thirty-eighth session.[1]

4. At the 1st meeting, on 3 October, the Chairman of the United Nations Commission on International Trade Law at its thirty-eighth session introduced the report of the Commission on the work of that session.

[1] *Official Records of the General Assembly, Sixtieth Session, Supplement No. 17* (A/60/17).

05-57858 (E) 021105

II. Consideration of proposals

A. Draft resolution A/C.6/60/L.7

5. At the 10th meeting, on 21 October, the representative of Austria, on behalf of Algeria, Argentina, Australia, Austria, Azerbaijan, Belarus, Belgium, Belize, Brazil, Bulgaria, Canada, Chile, China, Colombia, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Denmark, Ecuador, Estonia, Ethiopia, Fiji, Finland, France, Germany, Greece, Guatemala, Haiti, Hungary, India, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kenya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Mexico, Mongolia, Morocco, the Netherlands, New Zealand, Norway, the Philippines, Poland, Portugal, the Republic of Korea, Romania, the Russian Federation, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine and the United Kingdom of Great Britain and Northern Ireland and Uruguay, subsequently joined by Bolivia, the Dominican Republic, the Gambia and Latvia, introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its thirty-eighth session" (A/C.6/60/L.7).

6. At its 14th meeting, on 26 October, the Committee adopted draft resolution A/C.6/60/L.7 without a vote (see para. 10, draft resolution I).

B. Draft resolution A/C.6/60/L.8

7. At the 10th meeting, on 21 October, the Chairman of the Committee introduced a draft resolution entitled "United Nations Convention on the Use of Electronic Communications in International Contracts" (A/C.6/60/L.8).

8. At its 14th meeting, on 26 October, the Committee adopted draft resolution A/C.6/60/L.8 without a vote (see para. 10, draft resolution II).

9. After the adoption of the draft resolution, the representative of France made a statement in explanation of position (see A/C.6/60/SR.14).

III. Recommendations of the Sixth Committee

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Report of the United Nations Commission on International Trade Law on the work of its thirty-eighth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Having considered the report of the Commission on the work of its thirty-eighth session,[1]

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on the work of its thirty-eighth session;[1]

2. *Commends* the Commission for the finalization and approval of a draft convention on the use of electronic communications in international contracts;[2]

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[1] *Official Records of the General Assembly, Sixtieth Session, Supplement No. 17* (A/60/17).

[2] Ibid., chap. III and annex I.

3. *Also commends* the Commission for the progress made in its work on a revision of its Model Law on Procurement of Goods, Construction and Services,[3] on model legislative provisions on interim measures in international commercial arbitration, on a draft instrument on transport law and on a draft legislative guide on secured transactions;

4. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in t modernization and harmonization of international trade law;

5. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical assistance in the field of international trade law reform and development, and in this connection:

(a) Welcomes the initiatives of the Commission towards expanding, through its secretariat, its technical assistance programme;

(b) Expresses its appreciation to the Commission for carrying out technical assistance activities in Azerbaijan, Brazil, China, Ethiopia (for the Common Market for Eastern and Southern Africa), Serbia and Montenegro, Slovenia, South Africa (for the Association of Law Reform Agencies of Eastern and Southern Africa) and Thailand;

(c) Expresses its appreciation to the Governments whose contributions enabled the seminars and briefing missions to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in carrying out technical assistance activities, in particular in developing countries;

(d) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission;

6. *Takes note with regret* that, since the thirty-sixth session of the Commission, no contributions have been made to the trust fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General,[4] stresses the need for contributions to the trust fund in order to increase expert representation from developing countries at sessions of the Commission and its working groups, and reiterates its appeal to Governments, the relevant bodies of the

[3] Ibid., *Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

[4] Resolution 48/32, para. 5.

United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund;

7. *Decides*, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the sixtieth session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

8. *Recalls* that the responsibility for the work of the Commission lies with the meetings of the Commission and its intergovernmental working groups, and stresses in this regard that information should be provided regarding meetings of experts, which bring an essential contribution to the work of the Commission;

9. *Also recalls* its resolutions on partnerships between the United Nations and non-State actors, in particular the private sector,[5] and in this regard encourages the Commission to further explore different approaches to the use of partnerships with non-State actors in the implementation of its mandate, in particular in the area of technical assistance, in accordance with the applicable principles and guidelines and in cooperation and coordination with other relevant offices of the Secretariat, including the Global Compact Office;

10. *Reiterates its request* to the Secretary-General, in conformity with the General Assembly resolutions on documentation-related matters,[6] which, in particular, emphasize that any reduction in the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and work of the Commission in implementing page limits with respect to the documentation of the Commission;

11. *Requests* the Secretary-General to continue providing summary records of the Commission's meetings relating to the formulation of normative texts;

12. *Stresses* the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and, to this end, urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

13. *Takes note with appreciation* of the preparation of digests of case law relating to the texts of the Commission, in particular a digest of case law relating to the United Nations Convention on Contracts for the International Sale of Goods[7] and a digest of case law relating to the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law,[8] which will assist in dissemination of information on those texts and promote their use, enactment and uniform interpretation;

14. *Welcomes* the Commission's decision to hold, in the context of its fortieth session in 2007, a congress on international trade law in Vienna, with a view to

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[5] Resolutions 55/215, 56/76 and 58/129.

[6] Resolutions 52/214, sect. B, 57/283 B, sect. III, and 58/250, sect. III.

[7] United Nations, *Treaty Series*, vol. 1489, No. 25567.

[8] *Official Records of the General Assembly, Fortieth Session, Supplement No. 17* (A/40/17), annex I.

reviewing the results of the past work of the Commission as well as related work of other organizations active in the field of international trade law, assessing current work programmes and considering topics and areas for future work, and acknowledges the importance of holding such a congress for the coordination and promotion of activities aimed at the modernization and harmonization of international trade law;

15. *Notes* that 2006 will mark the thirtieth anniversary of the adoption by the Commission of the Arbitration Rules of the United Nations Commission on International Trade Law,[9] used worldwide in the settlement of disputes concerning international trade and investment, and in this regard welcomes initiatives being undertaken to organize conferences and other similar events to provide a forum for assessing the experience with the Rules, as well as discussing their possible revision;

16. *Recalls* its resolutions affirming the importance of high-quality, user-friendly and cost-effective United Nations websites and the need for their multilingual development, maintenance and enrichment,[10] commends the Commission's restructured website in the six official languages of the United Nations, and welcomes the continuous efforts of the Commission to maintain and improve its website in accordance with the applicable guidelines.

[9] United Nations publication, Sales No. E.77.V.6.

[10] Resolutions 52/214, sect. C, para. 3, 55/222, sect. III, para. 12, 56/64 B, sect. X, 57/130 B, sect. X, 58/101 B, sect. V, paras. 61-76, and 59/126 B, sect. V, paras. 76-95.

Draft resolution II
United Nations Convention on the Use of Electronic Communications in International Contracts

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Considering that problems created by uncertainties as to the legal value of electronic communications exchanged in the context of international contracts constitute an obstacle to international trade,

Convinced that the adoption of uniform rules to remove obstacles to the use of electronic communications in international contracts, including obstacles that might result from the operation of existing international trade law instruments, would enhance legal certainty and commercial predictability for international contracts and may help States gain access to modern trade routes,

Recalling that, at its thirty-fourth session, in 2001, the Commission decided to prepare an international instrument dealing with issues of electronic contracting, which should also aim at removing obstacles to electronic commerce in existing uniform law conventions and trade agreements, and entrusted its Working Group on Electronic Commerce with the preparation of a draft,[1]

Noting that the Working Group devoted six sessions, from 2002 to 2004, to the preparation of the draft Convention on the Use of Electronic Communications in International Contracts, and that the Commission considered the draft Convention at its thirty-eighth session in 2005,[2]

Being aware that all States and interested international organizations were invited to participate in the preparation of the draft Convention at all the sessions of the Working Group and at the thirty-eighth session of the Commission, either as members or as observers, with a full opportunity to speak and make proposals,

Noting with satisfaction that the text of the draft Convention was circulated for comments before the thirty-eighth session of the Commission to all Governments and international organizations invited to attend the meetings of the Commission and the Working Group as observers, and that the comments received were before the Commission at its thirty-eighth session,[3]

Taking note with satisfaction of the decision of the Commission at its thirty-eighth session to submit the draft Convention to the General Assembly for its consideration,[4]

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[1] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr. 3), paras. 291-295.

[2] Ibid., *Sixtieth Session, Supplement No. 17* (A/60/17), chap. III.

[3] A/CN.9/578 and Add.1-17.

[4] *Official Records of the General Assembly, Sixtieth Session, Supplement No. 17* (A/60/17), para. 167.

Taking note of the draft Convention approved by the Commission,[5]

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for preparing the draft Convention on the Use of Electronic Communications in International Contracts;[5]

2. *Adopts* the United Nations Convention on the Use of Electronic Communications in International Contracts, which is contained in the annex to the present resolution, and requests the Secretary-General to open it for signature;

3. *Calls upon* all Governments to consider becoming party to the Convention.

Annex

United Nations Convention on the Use of Electronic Communications in International Contracts

The States Parties to this Convention,

Reaffirming their belief that international trade on the basis of equality and mutual benefit is an important element in promoting friendly relations among States,

Noting that the increased use of electronic communications improves the efficiency of commercial activities, enhances trade connections and allows new access opportunities for previously remote parties and markets, thus playing a fundamental role in promoting trade and economic development, both domestically and internationally,

Considering that problems created by uncertainty as to the legal value of the use of electronic communications in international contracts constitute an obstacle to international trade,

Convinced that the adoption of uniform rules to remove obstacles to the use of electronic communications in international contracts, including obstacles that might result from the operation of existing international trade law instruments, would enhance legal certainty and commercial predictability for international contracts and help States gain access to modern trade routes,

Being of the opinion that uniform rules should respect the freedom of parties to choose appropriate media and technologies, taking account of the principles of technological neutrality and functional equivalence, to the extent that the means chosen by the parties comply with the purpose of the relevant rules of law,

Desiring to provide a common solution to remove legal obstacles to the use of electronic communications in a manner acceptable to States with different legal, social and economic systems,

Have agreed as follows:

[5] Ibid., annex I.

Chapter I
Sphere of application

Article 1
Scope of application

1. This Convention applies to the use of electronic communications in connection with the formation or performance of a contract between parties whose places of business are in different States.

2. The fact that the parties have their places of business in different States is to be disregarded whenever this fact does not appear either from the contract or from any dealings between the parties or from information disclosed by the parties at any time before or at the conclusion of the contract.

3. Neither the nationality of the parties nor the civil or commercial character of the parties or of the contract is to be taken into consideration in determining the application of this Convention.

Article 2
Exclusions

1. This Convention does not apply to electronic communications relating to any of the following:

(a) Contracts concluded for personal, family or household purposes;

(b) (i) Transactions on a regulated exchange; (ii) foreign exchange transactions; (iii) inter-bank payment systems, inter-bank payment agreements or clearance and settlement systems relating to securities or other financial assets or instruments; (iv) the transfer of security rights in sale, loan or holding of or agreement to repurchase securities or other financial assets or instruments held with an intermediary.

2. This Convention does not apply to bills of exchange, promissory notes, consignment notes, bills of lading, warehouse receipts or any transferable document or instrument that entitles the bearer or beneficiary to claim the delivery of goods or the payment of a sum of money.

Article 3
Party autonomy

The parties may exclude the application of this Convention or derogate from or vary the effect of any of its provisions.

Chapter II
General provisions

Article 4
Definitions

For the purposes of this Convention:

(a) "Communication" means any statement, declaration, demand, notice or request, including an offer and the acceptance of an offer, that the parties are required to make or choose to make in connection with the formation or performance of a contract;

(b) "Electronic communication" means any communication that the parties make by means of data messages;

(c) "Data message" means information generated, sent, received or stored by electronic, magnetic, optical or similar means, including, but not limited to, electronic data interchange, electronic mail, telegram, telex or telecopy;

(d) "Originator" of an electronic communication means a party by whom, or on whose behalf, the electronic communication has been sent or generated prior to storage, if any, but it does not include a party acting as an intermediary with respect to that electronic communication;

(e) "Addressee" of an electronic communication means a party who is intended by the originator to receive the electronic communication, but does not include a party acting as an intermediary with respect to that electronic communication;

(f) "Information system" means a system for generating, sending, receiving, storing or otherwise processing data messages;

(g) "Automated message system" means a computer program or an electronic or other automated means used to initiate an action or respond to data messages or performances in whole or in part, without review or intervention by a natural person each time an action is initiated or a response is generated by the system;

(h) "Place of business" means any place where a party maintains a non-transitory establishment to pursue an economic activity other than the temporary provision of goods or services out of a specific location.

Article 5
Interpretation

1. In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.

2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

Article 6
Location of the parties

1. For the purposes of this Convention, a party's place of business is presumed to be the location indicated by that party, unless another party demonstrates that the party making the indication does not have a place of business at that location.

2. If a party has not indicated a place of business and has more than one place of business, then the place of business for the purposes of this Convention is that which has the closest relationship to the relevant contract, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract.

3. If a natural person does not have a place of business, reference is to be made to the person's habitual residence.

4. A location is not a place of business merely because that is: (a) where equipment and technology supporting an information system used by a party in connection with the formation of a contract are located; or (b) where the information system may be accessed by other parties.

5. The sole fact that a party makes use of a domain name or electronic mail address connected to a specific country does not create a presumption that its place of business is located in that country.

Article 7
Information requirements

Nothing in this Convention affects the application of any rule of law that may require the parties to disclose their identities, places of business or other information, or relieves a party from the legal consequences of making inaccurate, incomplete or false statements in that regard.

Chapter III
Use of electronic communications in international contracts

Article 8
Legal recognition of electronic communications

1. A communication or a contract shall not be denied validity or enforceability on the sole ground that it is in the form of an electronic communication.

2. Nothing in this Convention requires a party to use or accept electronic communications, but a party's agreement to do so may be inferred from the party's conduct.

Article 9
Form requirements

1. Nothing in this Convention requires a communication or a contract to be made or evidenced in any particular form.

2. Where the law requires that a communication or a contract should be in writing, or provides consequences for the absence of a writing, that requirement is met by an electronic communication if the information contained therein is accessible so as to be usable for subsequent reference.

3. Where the law requires that a communication or a contract should be signed by a party, or provides consequences for the absence of a signature, that requirement is met in relation to an electronic communication if:

(a) A method is used to identify the party and to indicate that party's intention in respect of the information contained in the electronic communication; and

(b) The method used is either:

(i) As reliable as appropriate for the purpose for which the electronic communication was generated or communicated, in the light of all the circumstances, including any relevant agreement; or

(ii) Proven in fact to have fulfilled the functions described in subparagraph (a) above, by itself or together with further evidence.

4. Where the law requires that a communication or a contract should be made available or retained in its original form, or provides consequences for the absence of an original, that requirement is met in relation to an electronic communication if:

(a) There exists a reliable assurance as to the integrity of the information it contains from the time when it was first generated in its final form, as an electronic communication or otherwise; and

(b) Where it is required that the information it contains be made available, that information is capable of being displayed to the person to whom it is to be made available.

5. For the purposes of paragraph 4 (a):

(a) The criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change that arises in the normal course of communication, storage and display; and

(b) The standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all the relevant circumstances.

Article 10
Time and place of dispatch and receipt of electronic communications

1. The time of dispatch of an electronic communication is the time when it leaves an information system under the control of the originator or of the party who sent it on behalf of the originator or, if the electronic communication has not left an information system under the control of the originator or of the party who sent it on behalf of the originator, the time when the electronic communication is received.

2. The time of receipt of an electronic communication is the time when it becomes capable of being retrieved by the addressee at an electronic address designated by the addressee. The time of receipt of an electronic communication at another electronic address of the addressee is the time when it becomes capable of being retrieved by the addressee at that address and the addressee becomes aware that the electronic communication has been sent to that address. An electronic communication is presumed to be capable of being retrieved by the addressee when it reaches the addressee's electronic address.

3. An electronic communication is deemed to be dispatched at the place where the originator has its place of business and is deemed to be received at the place where the addressee has its place of business, as determined in accordance with article 6.

4. Paragraph 2 of this article applies notwithstanding that the place where the information system supporting an electronic address is located may be different from the place where the electronic communication is deemed to be received under paragraph 3 of this article.

Article 11
Invitations to make offers

A proposal to conclude a contract made through one or more electronic communications which is not addressed to one or more specific parties, but is generally accessible to parties making use of information systems, including proposals that make use of interactive applications for the placement of orders through such information systems, is to be considered as an invitation to make offers, unless it clearly indicates the intention of the party making the proposal to be bound in case of acceptance.

Article 12
Use of automated message systems for contract formation

A contract formed by the interaction of an automated message system and a natural person, or by the interaction of automated message systems, shall not be denied validity or enforceability on the sole ground that no natural person reviewed or intervened in each of the individual actions carried out by the automated message systems or the resulting contract.

Article 13
Availability of contract terms

Nothing in this Convention affects the application of any rule of law that may require a party that negotiates some or all of the terms of a contract through the exchange of electronic communications to make available to the other party those electronic communications which contain the contractual terms in a particular manner, or relieves a party from the legal consequences of its failure to do so.

Article 14
Error in electronic communications

1. Where a natural person makes an input error in an electronic communication exchanged with the automated message system of another party and the automated message system does not provide the person with an opportunity to correct the error, that person, or the party on whose behalf that person was acting, has the right to withdraw the portion of the electronic communication in which the input error was made if:

(a) The person, or the party on whose behalf that person was acting, notifies the other party of the error as soon as possible after having learned of the error and indicates that he or she made an error in the electronic communication; and

(b) The person, or the party on whose behalf that person was acting, has not used or received any material benefit or value from the goods or services, if any, received from the other party.

2. Nothing in this article affects the application of any rule of law that may govern the consequences of any error other than as provided for in paragraph 1.

Chapter IV
Final provisions

Article 15
Depositary

The Secretary-General of the United Nations is hereby designated as the depositary for this Convention.

Article 16
Signature, ratification, acceptance or approval

1. This Convention is open for signature by all States at United Nations Headquarters in New York from 16 January 2006 to 16 January 2008.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. This Convention is open for accession by all States that are not signatory States as from the date it is open for signature.

4. Instruments of ratification, acceptance, approval and accession are to be deposited with the Secretary-General of the United Nations.

Article 17
Participation by regional economic integration organizations

1. A regional economic integration organization that is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The regional economic integration organization shall in that case have the rights and obligations of a Contracting State, to the extent that that organization has competence over matters governed by this Convention. Where the number of Contracting States is relevant in this Convention, the regional economic integration organization shall not count as a Contracting State in addition to its member States that are Contracting States.

2. The regional economic integration organization shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that organization by its member States. The regional economic integration organization shall promptly notify the depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a "Contracting State" or "Contracting States" in this Convention applies equally to a regional economic integration organization where the context so requires.

4. This Convention shall not prevail over any conflicting rules of any regional economic integration organization as applicable to parties whose respective places of business are located in States members of any such organization, as set out by declaration made in accordance with article 21.

Article 18
Effect in domestic territorial units

1. If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

2. These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.

3. If, by virtue of a declaration under this article, this Convention extends to one or more but not all of the territorial units of a Contracting State, and if the place of business of a party is located in that State, this place of business, for the purposes of this Convention, is considered not to be in a Contracting State, unless it is in a territorial unit to which the Convention extends.

4. If a Contracting State makes no declaration under paragraph 1 of this article, the Convention is to extend to all territorial units of that State.

Article 19
Declarations on the scope of application

1. Any Contracting State may declare, in accordance with article 21, that it will apply this Convention only:

(a) When the States referred to in article 1, paragraph 1, are Contracting States to this Convention; or

(b) When the parties have agreed that it applies.

2. Any Contracting State may exclude from the scope of application of this Convention the matters it specifies in a declaration made in accordance with article 21.

Article 20
Communications exchanged under other international conventions

1. The provisions of this Convention apply to the use of electronic communications in connection with the formation or performance of a contract to which any of the following international conventions, to which a Contracting State to this Convention is or may become a Contracting State, apply:

Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 June 1958);

Convention on the Limitation Period in the International Sale of Goods (New York, 14 June 1974) and Protocol thereto (Vienna, 11 April 1980);

United Nations Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980);

United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (Vienna, 19 April 1991);

United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (New York, 11 December 1995);

United Nations Convention on the Assignment of Receivables in International Trade (New York, 12 December 2001).

2. The provisions of this Convention apply further to electronic communications in connection with the formation or performance of a contract to which another international convention, treaty or agreement not specifically referred to in paragraph 1 of this article, and to which a Contracting State to this Convention is or may become a Contracting State, applies, unless the State has declared, in accordance with article 21, that it will not be bound by this paragraph.

3. A State that makes a declaration pursuant to paragraph 2 of this article may also declare that it will nevertheless apply the provisions of this Convention to the use of electronic communications in connection with the formation or performance of any contract to which a specified international convention, treaty or agreement applies to which the State is or may become a Contracting State.

4. Any State may declare that it will not apply the provisions of this Convention to the use of electronic communications in connection with the formation or performance of a contract to which any international convention, treaty or agreement specified in that State's declaration, to which the State is or may become a Contracting State, applies, including any of the conventions referred to in paragraph 1 of this article, even if such State has not excluded the application of paragraph 2 of this article by a declaration made in accordance with article 21.

Article 21
Procedure and effects of declarations

1. Declarations under article 17, paragraph 4, article 19, paragraphs 1 and 2, and article 20, paragraphs 2, 3 and 4, may be made at any time. Declarations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.

2. Declarations and their confirmations are to be in writing and to be formally notified to the depositary.

3. A declaration takes effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force takes effect on the first day of the month following the expiration of six months after the date of its receipt by the depositary.

4. Any State that makes a declaration under this Convention may modify or withdraw it at any time by a formal notification in writing addressed to the depositary. The modification or withdrawal is to take effect on the first day of the

month following the expiration of six months after the date of the receipt of the notification by the depositary.

Article 22
Reservations

No reservations may be made under this Convention.

Article 23
Entry into force

1. This Convention enters into force on the first day of the month following the expiration of six months after the date of deposit of the third instrument of ratification, acceptance, approval or accession.

2. When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the third instrument of ratification, acceptance, approval or accession, this Convention enters into force in respect of that State on the first day of the month following the expiration of six months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

Article 24
Time of application

This Convention and any declaration apply only to electronic communications that are made after the date when the Convention or the declaration enters into force or takes effect in respect of each Contracting State.

Article 25
Denunciations

1. A Contracting State may denounce this Convention by a formal notification in writing addressed to the depositary.

2. The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

DONE at New York, this [...] day of [...], 2005, in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed this Convention.